

The Appeals Board has reviewed the record and considered the stipulations listed in the Award.

ISSUES

The Special Administrative Law Judge denied benefits finding claimant had failed to meet his burden of proving the existence of an employer/employee relationship with respondent on the accident date. Claimant seeks Appeals Board review of that finding. As all remaining issues would be remanded to the Administrative Law Judge should the claim be found compensable, the sole issue before the Appeals Board concerns the nature of the relationship between claimant and respondent.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Having reviewed the whole evidentiary record and considered the briefs and arguments of the parties, the Appeals Board finds that the Award by the Special Administrative Law Judge should be affirmed.

The findings and conclusions enumerated in the Award by the Special Administrative Law Judge are found to be accurate and appropriate and are hereby adopted by the Appeals Board as its own as if specifically set forth herein. The Appeals Board agrees that claimant has failed to meet his burden of proof in establishing an employer/employee relationship with respondent on the accident date. The greater weight of the credible evidence suggests claimant and his wife were partners or joint venturers in the respondent cleaning business the name of which bears their respective initials. The evidence demonstrates an intent, on the part of claimant and his wife, that neither of them comes under the workers compensation insurance coverage. While this is not determinative of the issue, their actions in this regard are inconsistent with a finding of an employer/employee relationship.

The decision of the Special Administrative Law Judge denying compensation on the basis that the relationship of employer/employee did not exist between the parties on the date in question is affirmed.

AWARD

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the Award entered by Special Administrative Law Judge Douglas F. Martin dated March 28, 1996, should be, and is hereby, affirmed in all respects and the orders contained in the Award are hereby adopted by the Appeals Board as its own.

IT IS SO ORDERED.

Dated this ____ day of September 1996.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

c: Timothy J. King, Wichita, KS
Lyndon W. Vix, Wichita, KS
Douglas F. Martin, Special Administrative Law Judge
Philip S. Harness, Director